PATENTS+TMS, P.C. 1914 North Milwaukee Avenue Chicago, IL 60647

T I.: 773/772-6009 Fax: 773/772-3210 www.patents-tms.com

FAX RECEIVED

DEC 5 8 5001

GROUP 3700

FACSIMILE COVER SHEET

Date: December 21, 2001

TO:

Examiner Walczak

Fax 703/872-9303

FROM:

Brian Mattson, Reg. No. 35,018, Attorney for Applicant

Re:

U.S. Serial No.:

09/510,087

Inventor:

Smith

Attorney Docket No.:

EVS-P -99-017

Title: A MARKING DEVICE, A METHOD OF USING THE SAME AND AN

ACCESSORY KIT FOR THE MARKING DEVICE"

NO . OF PAGES INCLUDING THIS SHEET: 7

MESSAGE:

Pursuant to your suggestion, we are faxing you a copy of our response to the Office Action dated April 30, 2001 for the above-identified application. We mailed a response to the Office Action by Express Mail, Post Office to Addressee on October 26, 2001. We submit a copy of the following:

- **Continued Prosecution Application Request Transmittal** 1.
- Certificate of Mailing 2.
- Check for \$265.00 3.
- Check for \$370.00 4.
- Return Receipt postcard 5.
- Express Mail Post Office To Addressee Mailing Label 6,
- **Express Mail Receipt**

FAX RECEIVED

DEC 2 6 2001

GROUP 3700

If you have any questions or require additional information, please do not hesitate to contact us.

CONFIDENTIALITY NOTICE

THIS FAXTRANSMISSION CONSISTS OF CONFIDENTIAL AND/OR ATTORNEY CLIENT PRIVILEGED AND/OR ATTORNEY WORK PRODUCT INFORMATION, AND IS INTENDED FOR THE ADDRESSEE ONLY. IF YOU RECEIVE THIS FAX IN ERROR, PLEASE CONTACT US TO ARRANGE FOR THE RETURN OF THIS MATERIAL. ANY USE OF THIS MATERIAL BY ANYONE OTHER THAN THE ADDRESSEE INDICATED ABOVE IS STRICTLY PROHIBITED.

If you have any problems with this transmission, or if you do not receive all pages, please telephone: 773/772-6009. Thank y u.

CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

(Only for Continuation or Divisional Applications under 37 CFR 1.53(d))

_DUPLICATE

Address to:	Attorney Docket No.	EVS-P-99-017		
Assistant Commissioner for Patents	First Named Inventor	SMITH		
Box CPA Washington, DC 20231	Examiner Name	WALCZAK		
	Group Art Unit	3751		
	Express Mail Label No.	EL613926721US		

This is a request for a X continuation or ____divisional application under 37 CFR 1.53(d). (continued prosecution application (CPA)) of prior application number _____09/510.087, filed on February 22, 2000, entitled "A MARKING DEVICE, A METHOD OF USING THE SAME AND AN ACCESSORY KIT FOR THE MARKING DEVICE"

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a non provisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a untity or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Communical Examination Practice changes to and Provisional Application Practice." Final Rule, 65 Fed. Reg. 50092 (Aug 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000)

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that nay member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

٠٠٠٠

1.	<u>X</u>	Enter the unentered amendment previously filed on <u>September 21, 2001</u> . under 37 CFR 1.116 in the prior non-provisional application.
2.		A preliminary amendment is enclosed.
		This application is filed by fewer than all the inventors named in the prior application.
3.		
	a.	DELETE the following inventor(s) named in the prior nonpri
		application:
	b.	•
4.		A new Power of Attorney or authorization of agent (PTO/SB/81) is enclosed.
5.	Inform	nation Disclosure Statement (IDS) is enclosed:
٥.	a.	PTO-1449
	ь.	Copies of IDS Citations

	CLAIMS AS	FILED		
(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(d) RATE	(5) FIE \$355.00
TOTAL	20	0	9.00	U
INDEPENDENT CLAIMS	4	0	39.00	0
CLAINS	ANY MULTIPLE DEPE	NDENT IO		·
			TOTAL FILING FEE ->	\$370.00

- 6. X Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
- 7. X Applicant petitions the Assistant Commissioner for a 3 MONTH extension of time so that the period for response is extended to OCTOBER 30, 2001. A check in the amount of \$265.00 to cover the extension fee is enclosed.
- 8. X The Commissioner is authorized to charge any additional fees which may be required in connection with this application, or credit any overpayment to Account No.50-0595.
 A duplicate copy of this sheet is enclosed.
- 9. X A check in the amount of \$370.00 is enclosed.
- 10. Payment by credit card. Form PTO-2038 is attached.
- Applicant request suspension of action under 37 CFR 1.103(b) for a period of __months (not to exceed 3 months) and the fee under 37 CFR 1.17 (i) is enclosed.
- 12. New Attorney Docket Number, if desired

 [Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]
- 13. a. Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
 b. X Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

14. NEV	/ COR	RESP	ICINO	ENCE	ADD!	RESS:
---------	-------	------	-------	------	------	-------

Name:			
Address:			
City/State/Zip Code:			
Country:		 	
Telephone/Fax:		 	

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Brian M. Mattson

Patents+TMS

A Professional Corporation 1914 N. Milwaukee Ave. Chicago, Illinois 60647 Telephone: (773) 772-6009

Attorney for Applicant

When phoning re: this application please call Brian M. Mattson at 773/772-6009

CERTIFICATE OF MAILING

I hereby certify that this Continued Prosecution Application Request Transmittal, Check for \$265.00 and Check for \$370.00 are being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Asst. Commissioner for Patents. Washington, D.C. 20231 on October 26, 2007.

Sheria Johnson

1944 **PATENTS & TMS BRIAN MATTSON** * Working Capital Management "Account VICKI WEATHERHOG 1914 N MILWAUKEE AVE THIRD FLOOR CHICAGO, IL 6067 DATE PAY TO THE ORDER OF **a** #8 BOLLARS Merrill Lynch BANKEONE. SAME COLUMBUS MA 31/235617# 1:0440008041 #1001944# ::108000110: 44 1 95 E 2 1 E 1 1 1 0 #E 16100# YA9 SHT OT SR∃ORO 1914 N MILWAUKEE AVE THIRO FLOOR CHICAGO, IL 60647 007/08-9Z | Worlding Capital | TinemageneM VICKI WEATHERHOG **NOSTTAM NAIRE SMT & STN3TA9** E76T

ASST. COMMISSIONER FOR PATENTS
ASST. COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

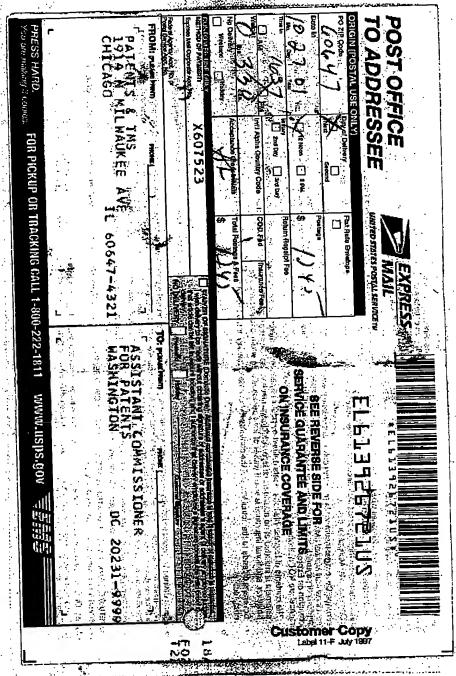
APPLICANT: SMITH

ATTY, DOCKET NO.:EVS-P-99-017
U.S. Serial No.:09/510,087

ENCLOSED:
1. CPA Request Transmittal (duplicate)
2. Check for \$265.00
3. Check for \$370.00

MAILED ON: October 25, 2001

Wia Express Mail



HELCOME TO ******
ROBERTO CLEMENTE STA.
CHICAGO, IL BOB47-9988
10/26/01 04:37PM

Store USPS
Wikstn sys5003 Cashier KZ6R48
Cashier's Name frencher KZ6R48
Destination:
Weight:
Base Rate:
Labe!#:
Cost:
Base Rate:
Labe!#:
Cost:
Base Rate:
Labe!#:
Cost:
12.45
Corporate Acct.: 607623
Amount Charged: 12.45

Subtptal
Thank You
Please come again!

Received from < 773 772 3210 > at 12/21/01 12:00:28 PM [Eastern Standard Time]